

Message Text

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ACTION OPIC-06

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FM AMEMBASSY DACCA

TO SECSTATE WASHDC 7064

C O N F I D E N T I A L DACCA 2874

EO 11652: GDS

TAGS: EFIN, BG

SUBJ: SQUIBB RESCHEDULING AGREEMENT

REF: STATE 133061

1. CONROY OF SQUIBB HAS SHARED WITH US THE LOCAL LEGAL OPINION MENTIONED REFTEL. IT IN ATTORNEY CITES FOLLOWING PORTION OF THE FOREIGN EXCHANGE REGULATION ACT, 1947: QUOTE NO PERSON IN, OR RESIDENT IN, BANGLADESH SHALL: (A) MAKE ANY PAYMENT TO OR FOR THE CREDIT OF ANY PERSON RESIDENT OUTSIDE BANGLADESH, (B) DRAW, ISSUE OR NEGOTIATE ANY BILL OF EXCHANGE OR PROMISSORY NOTE OR KNOWLEDGE ANY DEBT, SO THAT A RIGHT TO RECEIVE A PAYMENT IS CREATED IN FAVOUR OF ANY PERSON RESIDENT OUTSIDE BANGLADESH, (C) MAKE ANY PAYMENT TO OR FOR THE CREDIT OF ANY PERSON BY ORDER OR ON BEHALF OF ANY PERSON RESIDENT OUTSIDE BANGLADESH, AND (D) PLACE ANY SUM TO THE CREDIT OF ANY PERSON RESIDENT OUTSIDE BANGLADESH UNLESS BANGLADESH BANKS GRANTS EXEMPTION IN THAT BEHALF. END QUOTE. IT APPEARS TO US THAT IF THIS CITATION IS ACCURATE SQUIBB IS INDEED REQUIRED TO OBTAIN BDG APPROVAL FOR THE THIS AMENDATORY AGREEMENT.

2. SQUIBB IS 40 PERCENT BDG OWNED. THREE MEMBERS OF SQUIBB'S BOARD OF DIRECTORS ARE BDG OFFICIALS. WHILE IT MAY BE ARGUED THAT THE APPROVAL OF SQUIBB'S BOARD CONSTITUTES BDG APPROVAL, IN FACT IT IS HIGHLY UNLIKELY THAT ANYONE IN THE BDG, OTHER THAN THE THREE BOARD MEMBERS AND PERHAPS ONE OR TWO OTHERS, IS EVEN AWARE

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OF THE AMENDATORY AGREEMENT. THUS WE DOUBT "ALL NECESSARY

BDG APPROVAL" IS GRANTED BY SQUIBB BOARD OF DIRECTORS' APPROVAL.

3. THE BDG CONTENDS THAT IT IS NOT THE SUCCESSOR TO THE ERSTWHILE PAKISTAN GOVERNMENT AND IS EXTREMELY SENSITIVE TO ANY ACTION THAT MIGHT BE CONSTRUED AS AN ADMISSION ON ITS PART THAT IT IS A SUCCESSOR GOVERNMENT. THE BDG HAS NEVER FORMALLY RECOGNIZED SQUIBB'S OBLIGATION UNDER THE COOLEY LOAN OR ANY OF SQUINCQFS AGREEMENTS WITH PAKISTAN. (SQUIBB HAS NOT ASKED FOR BDG APPROVAL.) WHILE WE ANTICIPATE NO BDG OBJECTION TO THE COOLEY LOAN AGREEMENT OR ITS AMENDMENT, NEITHER AGREEMENT HAS AS YET BEEN OFFICIALLY SANCTIONED.

4. IF OPIC INISISTS ON OFFICIAL BDG APPROVAL IT WILL PROBABLY TAKE SEVERAL MONTHS TO OBTAIN SUCH APPROVAL. AND IT MAY BE NECESSARY FOR THE EMBASSY TO ASSIST SQUIBB IN OBTAINING BDG APPROVAL. BUT AT SOME POINT THE BDG WILL HAVE TO BE MADE OFFICIALLY AWARE OF THE COOLEY LOAN AGREEMENT AND THE AMENDMENT. WE PREFER THEY BE MADE AWARE BEFORE RATHER THAN AFTER REPAYMENTS ARE MADE. THEREFORE WE RECOMMEND THAT OPIC CONTINUE TO INSIST ON BDG APPROVAL.
BOSTER

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